Airmartech Corporation (M) Sdn Bhd v Equaltra (M) Sdn Bhd

HIGH COURT (MELAKA) — GUAMAN SIVIL NO 22–85 OF 1999
LOW HOP BING J
13 NOVEMBER 2002

Land Law *— Restraint on dealings — Prohibitory order — Extension of original prohibitory order — Prohibitory order had lapsed at the time of application — Whether lapsed prohibitory order can be continued by way of a further prohibitory order — National Land Code 1965 ss 334, 335, 336 and 338, Rules of the High Court 1980 O 47 r 6*

Land Law *— Restraint on dealings — Prohibitory order — Plaintiff's application for leave to file new prohibitory order against defendant's land made after original prohibitory had lapsed — Whether plaintiff's application for leave to file new prohibitory order instead of extending original prohibitory was fundamentally flawed — National Land Code 1965 ss 334, 335, 336 and 338, Rules of the High Court 1980 O 47 r 6*

The plaintiff had obtained a prohibitory order against the defendant's land on 2 June 2000. This prohibitory order, which had expired on 1 December 2000, was extended for a further period of six months until 31 May 2001. Subsequently, on 2 July 2001, the plaintiff filed an application in encl (84) for leave to file a new prohibitory order against the defendant's land and for the writ of seizure and sale dated 2 June 2000 to be extended from 1 June 2001 to 31 May 2002. This was an appeal by the defendant against the decision of the learned deputy registrar in allowing the plaintiff's application in encl (84).

Held, allowing the defendant's appeal:

(1) The life span of an original prohibitory order was for a maximum period of six months provided that such original prohibitory order was registered with the relevant registry of titles or the land office. An extension thereof under O 47 r 6(5) of the Rules of the High Court 1980 ('the RHC') was also for a similar maximum period of six months, if but only if the order was presented for registration before the expiration of the prohibitory order under which such order had purported to extend (see p 665E–F).

(2) The plaintiff's application for leave to file a new prohibitory order instead of extending the original prohibitory order dated 2 June 2000 was fundamentally flawed because there was no provision for making a new prohibitory order under O 47 r 6(7) of the RHC. Order 47 r 6(7) of the RHC provided for the making of a 'further prohibitory order'. Accordingly, the plaintiff's application for a new prohibitory order was not within the purview of O 47 r 6(7) of the RHC (see p 665G–H).

(3) Even if one were to construe the plaintiff's application for a 'new prohibitory order' as an application for a 'further prohibitory order' and therefore within the provisions of O 47 r 6(7) of the RHC, the extended prohibitory order which had lapsed on

31 May 2001 may only be continued by way of a further prohibitory order under O 47 r 6(7) if the extended prohibitory order had remained valid and had not lapsed at the time when the application for extension was made. Once the extended prohibitory order had lapsed, it cannot be continued by way of a further prohibitory order (see pp 665I–666A, D–E); *Ban Hin Lee Credit Sdn Bhd v Utama Computer Centre Sdn Bhd & Ors* [1991] 2 MLJ 327 followed.

(4) As a general rule, O 47 r 6(7) of the RHC disallowed the making of a further prohibitory order affecting the same property or interest in the same suit or proceeding unless, the court or judge shall by order otherwise direct, on the ground of the existence of special circumstances. The burden was on the plaintiff to establish the existence of special circumstances and there was no rigid formulation as to what constituted 'special circumstances'. Here, based on the affidavit in support of the plaintiff's application, there was no evidence of the existence of special circumstances (see pp 665G, 666A, 667D).

[Bahasa Malaysia summary

Plaintif telah memperolehi satu perintah larangan ke atas tanah defendan pada 2 Jun 2000. Perintah larangan ini, yang telah luput pada 1 Disember 2000, telah dilanjutkan untuk tempoh lanjutan selama enam bulan sehingga 31 Mei 2001. Berikutan itu, pada 2 Julai 2001, plaintif telah memfailkan satu permohonan dalam lampiran (84) untuk kebenaran memfailkan satu perintah larangan baru ke atas tanah defendan dan untuk writ rampasan dan jualan bertarikh 2 Jun 2000 dilanjutkan daripada 1 Jun 2001 kepada 31 Mei 2002. Ini merupakan satu rayuan oleh defendan terhadap keputusan timbalan pendaftar yang telah membenarkan permohonan plaintif dalam lampiran (84).

Diputuskan, membenarkan rayuan defendan:

(1) Jangka hayat suatu perintah larangan yang asal adalah untuk tempoh maksima enam bulan dengan syarat perintah larangan asal tersebut telah didaftarkan dengan pejabat pendaftar hakmilik atau pejabat tanah yang relevan. Satu lanjutan untuk perintah larangan di bawah A 47 k 6(5) Kaedah-Kaedah Mahkamah Tinggi 1980 ('KMT') adalah juga untuk satu tempoh maksima enam bulan, tetapi hanya jika perintah tersebut dikemukakan untuk pendaftaran sebelum tempoh luput perintah larangan yang dipohon untuk dilanjutkan (lihat ms 665E–F).

(2) Permohonan plaintif untuk kebenaran memfailkan satu perintah larangan yang baru dan bukan untuk melanjutkan perintah larangan asal yang bertarikh 2 Jun 2000 adalah cacat pada dasarnya kerana tidak terdapat apa-apa peruntukan

di bawah A 47 k 6(7) KMT. Aturan 47 k 6(7) KMT memperuntukkan bagaimana pembikinan satu 'further prohibitory order'. Sewajarnya, permohonan plaintif untuk satu perintah larangan yang baru bukan di dalam ruang lingkup A 47 k 6(7) KMT (lihat ms 665G–H).

(3) Walaupun jika seseorang menafsirkan permohonan plaintif untuk satu 'new prohibitory order' sebagai satu permohonan untuk satu 'further prohibitory order' dan oleh itu terangkum di bawah peruntukan A 47 k 6(7) KMT, perintah larangan yang dilanjutkan telah luput pada 31 Mei 2001 hanya boleh diteruskan melalui satu perintah larangan selanjutnya di bawah A 47 k 6(7) jika perintah larangan tersebut masih sah dan tidak luput pada masa permohonan untuk lanjutan dibuat. Sebaik sahaja perintah larangan yang dilanjutkan tersebut luput, ia tidak boleh diteruskan melalui satu perintah larangan yang lain (lihat ms 665I–666A, D–E); *Ban Hin Lee Credit Sdn Bhd v Utama Computer Centre Sdn Bhd & Ors* [1991] 2 MLJ 327 diikut.

(4) Sebagai satu peraturan am, A 47 k 6(7) KMT tidak membenarkan pembuatan satu perintah larangan yang lain di mana melibatkan tanah atau kepentingan yang sama dalam guaman atau prosiding yang sama kecuali jika, mahkamah atau hakim memerintahkan sebaliknya, atas alasan wujudnya keadaan-keadaan yang istimewa. Beban adalah atas plaintif untuk menunjukkan terdapat keadaan-keadaan yang istimewa dan tidak terdapat pembentukan yang tegar berhubung apa yang membentuk 'special circumstances'. Di sini, berdasarkan afidavit sokongan permohonan plaintif, tidak terdapat apa-apa keterangan yang menunjukkan terdapatnya keadaan-keadaan yang istimewa (lihat ms 665G, 666A, 667D).]

Notes

For cases on prohibitory order, see 8 *Mallal's Digest* (4th Ed, 2001 Reissue) paras 3318–3319.

Cases referred to

Ban Hin Lee Credit Sdn Bhd v Utama Computer Centre Sdn Bhd & Ors [1991] 2 MLJ 327 (folld)

Karuppiah Chettiar v Subramaniam [1971] 2 MLJ 116 (refd)

Ming Ann Holdings Sdn Bhd v Danaharta Urus Sdn Bhd [2002] 3 MLJ 49 (refd)

Legislation referred to

Rules of the High Court O 46 r6(7), O 47 r 6(2), (4), (5), (7)

National Land Code 1965 ss 334, 335(1), (2), 336(1), (2), (3), (4), 337(2), 338(1), (2)

Thara Singh (*Nizam Bashir* with him) (*Bashir & Co*) for the defendant. A
WT Woon (*LF Leong* with him) (*Zailan & Co*) for the plaintiff.

Low Hop Bing J:

Appeal

The matter before me is encl (93) by way of notice of appeal to me as judge B
in chambers filed by the defendant against the decision of the learned deputy registrar ('the registrar') who had on 7 November 2001 allowed with costs the plaintiff's application in encl (84).

Prayers's sought in plaintiff's application C

Plaintiffs application in encl (84) sets out the following prayers :

1 Plaintif diberi kebenaran untuk memfailkan perintah larangan yang baru terhadap tanah Lot PT 2227 HS(D) 34499 dan Lot PT 2228 HS(M) 25 Mukim Krubong, Melaka;

2 writ penyitaan dan penjualan di sini yang bertarikh 2 Jun 2000, D
dilanjutkan tempoh masanya dari 1 Jun 2001 sehingga 31 Mei, 2002;

3 lain-lain relif; dan

4 kos permohonan ini ditanggung oleh defendan.

[*My translation*:

1 Plaintiff be given leave to file a new prohibitory order against the land Lot E
PT 2227 HS(D) 34499 and Lot PT 2228 HS(M) 25 Mukim of Krubong, Melaka;

2 the writ of seizure and sale herein dated 2 June 2000 be extended from 1 June 2001 to 31 May 2002;

3 other reliefs; and

4 costs of this application be borne by the defendant.] F

Observations on plaintiff's grounds of application

The plaintiff's grounds of application are set out at pp 1 and 2 of the summons in chambers in the following terms: G

(i) the prohibitory order herein dated 2 June 2000 has lapsed on 1 June 2001 and pursuant to O 46 r 6(7) of the Rules of the High Court 1980, an order for leave to file a new prohibitory order must be made before the new prohibitory order may be filed;

(ii) plaintiff is required to obtain leave to file the new prohibitory order to H
preserve the plaintiff's right to auction the defendant's land;

(iii) other grounds are as stated in the affidavit of Yong Lin Fooi filed herein.

The affidavit of Yong Lin Fooi contains eight paragraphs averring that:

1 The deponent is the plaintiff's solicitor having conduct of the action I
herein and was authorised to affirm the affidavit on behalf of the plaintiff.

2 All facts stated herein are true from personal knowledge, documents and records to which the deponent has access.

3 The deponent referred to the prohibitory order dated 2 June 2000 and the order of the court dated 29 November 2000 which extended the prohibitory order dated 2 June 2000 from 1 December 2000 until 31 May 2001.

4 The prohibitory order dated 2 June 2000 has lapsed on 1 June 2001 and pursuant to law, leave of the court is required before a new prohibitory order may be filed.

5 A public auction has been fixed for 28 May 2001 but could not be proceeded with because the sealed order for the auction cannot be extracted from the court.

6 The writ of seizure and sale dated 2 June 2000 will dispose of ('lupus') on 1 June 2001, hence an extension of time is also applied for so that it does not dispose of ('lupus') before a public auction can be fixed.

7 Plaintiff applies for leave and extension herein so that the plaintiffs right to auction the defendant's lands may be preserved.

8 On the aforesaid grounds, the deponent prays for an order in terms of this application.

The plaintiffs grounds of application contained in both the summons in chambers and the affidavit in support would immediately inspire at least three observations.

In the first instance, O 46 r 6(7) which appeared in the last line at p 1 of the summons in chambers and on which the plaintiff placed reliance does not appear to have been enacted in the Rules of the High Court 1980, there being no such O 46 r 6(7) whatsoever. This may be due to a typographical error or oversight which may have escaped the care and attention of a discerning draftsman of the summons in chambers who must undoubtedly be an advocate and solicitor. However, I am prepared to accept this as an irregularity although the proverbial stitch in time would have saved nine.

To any reasonably established or reasonably competent advocate and solicitor, it must have been obvious that the correct provision in the Rules of the High Court 1980 from which the plaintiff actually seeks support is indeed contained in O 47 r 6(7) which merits reproduction in extenso as follows:

> When a judgment creditor has obtained in any suit or proceeding a prohibitory order, in execution of an order or judgment in such suit or proceeding, affecting any immovable property or registered interest therein, no further prohibitory order affecting the same property or interest shall be made in the same suit or proceeding in execution of the same order or judgment on the application of such judgment creditor or of any other person unless the Court or a Judge shall by order otherwise direct, on the ground of the existence of special circumstances; ...

The second observation is stimulated by para 6 of the solicitor's affidavit wherein the solicitor stated that the writ of seizure and sale 'akan lupus pada

1 Jun 2001' (will dispose of on 1 June 2001). With the utmost respect, the word 'lupus' which appears twice in para 6 should have been 'luput' (lapse). This oversight appearing in the affidavit, which is an all-important legal document, on the part of the deponent who has been legally and professionally trained as an advocate and solicitor is an episode exhibiting a lackadaisical attitude.

It is apparent to me that there is a real necessity for the advocate and solicitor to microscopically scrutinise this or for that matter other legal documents to ensure, inter alia, that all 'i's are dotted and all 't's are crossed so that these legal documents do not suffer the unfortunate standard which have been so clearly manifested herein. Again, I am prepared to treat this lapse in the standard as an illustration of yet another typographical error which remains undetected by the solicitor concerned. I shall therefore deal with the word 'lupus' (dispose of) as if it were 'luput' (lapse).

The third observation is a spill over from the second observation wherein the exceptionally magnanimous treatment given by me to the word 'lupus' for 'luput' in order to reflect the true intention of the deponent-solicitor has not been able to rectify or overcome yet another imminent problem. The allegation of fact in the said para 6 is to the effect that the writ of seizure and sale shall lapse on 1 June 2001 when the solicitor's affidavit was filed on 26 Jun 2001. In other words, when the solicitor affirmed the affidavit on 26 June 2001, it was more than obvious that the writ of seizure and sale had already lapsed and not, as has been stated by the solicitor, 'akan lupus pada 1 Jun 2001' (shall dispose of — lapse on 1 June 2001).

I would have been more than delighted if I had been spared the miserable experience of having to make the aforesaid observations. Be that as it may, I would now proceed to consider the plaintiffs application on its merits.

Submission for defendant

Mr Thara Singh, assisted by En Nizam Bashir of learned counsel for the defendant submitted that the prohibitory order dated 2 June 2000 ('the original prohibitory order') had been sent to the land registry but only for one piece of land, ie Lot 2227 and not for Lot 2228.

It was further contended for the defendant that O 47 r 6(7) can only apply if there is an existing prohibitory order and if there is none, O 47 r 6(7) does not come into play.

They added that there are no special circumstances here to enable the court to exercise the discretion to grant a new prohibitory order.

Contention for plaintiff

Mr WT Woon together with Mr LF Leong, both learned counsel for the plaintiff, submitted that O 47 r 6(7) does not say that a prohibitory order must exist in the sense of not having lapsed before an application may be made for a further prohibitory order.

A They contended that a prohibitory order which has lapsed may be extended if the applicant can show special circumstances.

It was admitted for the plaintiff that the original prohibitory order did not seem to have been registered for Lot 2228, but was registered for Lot 2227. However, they canvassed that there was no provision whereby a new B prohibitory order would have to be made or presented for registration before the expiry of the original or extended prohibitory order.

Decision on this appeal

Prohibitory orders

C

In my judgment, it is appropriate to explain that a prohibitory order is analogous to a writ of *fieri facias*, per Gill FJ (later CJ (Malaya) in *Karuppiah Chettiar v Subramaniam* [1971] 2 MLJ 116 at p 119E. *Fi fa* in Latin means 'that you cause to be done'. It is a writ for levy of property as a mode of enforcing a judgment authorising an officer of the court to seize and sell D property of the judgment debtor and apply the proceeds in satisfaction of the judgment debt together with interest and administrative costs (at p 53 *The CCH Macquire Concise Dictionary of Modern Law 1988*).

It is also necessary to embark on the interaction between the detailed substantive law contained in the National Land Code 1965 and the E procedural provisions of the Rules of the High Court 1980 in order to comprehend the nature and mechanism of prohibitory orders.

Section 334 Chap 2, Part Nineteen of the National Land Code 1965 sets out the statutory definition of a prohibitory order as follows :

> Meaning of 'prohibitory order'
>
> F In this Chapter 'prohibitory order' means, where land or an interest in land held by a judgment debtor is to be sold in execution proceedings, an order made pursuant to rules of court by a court of competent jurisdiction prohibiting the judgment debtor from effecting any dealing therewith or from affecting such dealing therewith as may be specified in the order.
>
> (See also O 47 r 6 of the Rules of the High Court 1980)

G

For convenience, a reference hereinafter to a section is reference to that section in the National Land Code 1965 and a reference to an order and rule is a reference to that order and rule in the Rules of the High Court 1980.

H Order 47 r 6(l) provides for the seizure of immovable property or any registered interest therein to be made by an order prohibiting the judgment debtor from transferring, charging or leasing such property or interest. For this purpose, 'charging' shall include the creation of a lien by deposit of a document or title. This is the procedural extension and explanation of s 334.

I Order 47 r 6(2) provides for the service of the prohibitory order on the judgment debtor and the issue thereof to the judgment creditor for presentation and registration at the relevant registry of titles or land office.

Unless the context otherwise requires, a reference hereinafter to 'Registrar' shall be a reference to the registrar of titles and shall include a land administrator.

Section 335(1) says that no prohibitory order shall take effect until it has been entered by the registrar, in accordance with the provisions of this section, on the register document of title to the land to which, or an interest in which, it relates. The procedural extension and explanation is to be found in O 47 r 6(3) in the following words:

> No prohibitory order issued under this rule shall affect any immovable property or registered interest therein and no immovable property or registered interest therein shall be deemed to have been siezed until such prohibitory order shall have been registered as provided by any written law relating to such land; ...

Section 335(2) provides that when a copy of the prohibitory order is presented to the registrar for registration, it shall be the duty of the registrar to enter forthwith by endorsing on the said register document of title, under his hand and seal, the words 'Prohibitory Order', together with a statement specifying:

(a) whether the order relates to the land itself or merely a particular interest therein;

(b) the time at which the entry was made; and

(c) the reference under which the copy of the order is filed.

Under s 336(1), the effect of any prohibitory order duly entered on any register document of title and expressed to relate to the land itself shall, subject to sub-s (3) of this section and to sub-s (2) of s 337, be to prohibit so long as it continues in force the registration, endorsement or entry thereon of:

(a) any instrument of dealing executed by or on behalf of the proprietor thereof (but not any certificate of sale relating thereto);

(b) any claim to the benefit of any tenancy exempt from registration granted by the said proprietor; and

(c) any lien holder's caveat in respect thereof.

A corresponding provision containing a similar prohibiton is set out in s 336(2) in respect of any prohibitory order duly entered and expressed to relate to a particular interest only in the land.

Section 336(3) provides that a prohibitory order shall not prohibit the registration, endorsement or entry of any instrument, claim or lien-holder's caveat where the instrument was presented, or the application for endorsement or entry received, prior to the time from which the order takes effect.

Where the registration of any instrument, or the endorsement or entry of any claim or lien holder's caveat, is prohibited by any prohibitory order, the registrar shall reject the instrument or, as the case may be, the application for endorsement or entry: s 336(4).

A The life span of a prohibitory order is spelt out in s 338(1) as follows :

> Every prohibitory order shall, unless its duration is extended by an order made pursuant to rules of court, lapse at the expiry of six months from the date on which it was made or at the end of such other period as may be specified by rules of court.

B Order 47 r 6(4) contains similar provision relating to the six month life span of a prohibitory order.

Where special circumstances are established, power is conferred upon the court or judge to extend under O 47 r 6(5) in the following words:

> Upon the application of any judgment creditor on whose application a
> C prohibitory order has been issued the Court or a Judge, if it or he considers that special circumstances render an extension just, may from time to time by order extend the period of six months referred to in sub-rule (4), for any period not exceeding six months, provided that no order made under this rule shall have any force or effect unless it is presented for registration at the Land Office or Registry of Titles before the expiration of the prohibitory order
> D which such order purports to extend:

The order for extension shall be served on the judgment debtor and issued to the judgment creditor under O 47 r 6(2).

O 47 r 6(5) applies to an extension of an original prohibitory order which has already been made by a court or judge and the court or judge may
E from time to time by order extend the six-month period under O 47 r 6(4) for any period not exceeding six months. In other words, the original prohibitory order is for a maximum effective period of six months provided that such original prohibitory order shall have been registered with the relevant registry of titles or the land office. An extension thereof under O 47 r 6(5) is also for a similar maximum effective period of six months, if but
F only if it shall have been presented for the said registration before the expiration of the prohibitory order which such order purports to extend. This is also enacted in s 338(2) in the following words :

> An order extending a prohibitory order shall not have effect unless a copy of the order is presented for registration before the time at which the prohibitory
> G order to which it relates would, but for the extension, have lapsed.

Further prohibitory order

The prayer sought by the plaintiff in encl (84) is for a new prohibitory order and not an extension of the original prohibitory order or the extended
H prohibitory order which expired on 31 May 2001. The plaintiff's application is in my view fundamentally flawed. Upon a proper perusal of O 47 r 6(7), it is to be noted that there is no provision for making a new prohibitory order but instead it is a 'further prohibitory order'. Plaintiff's application in encl (84) for a new prohibitory order is in my view not within the purview or ambit of O 47 r 6(7).

I Be that as it may, even by stretching one's imagination to construe the plaintiff's application for a 'new prohibitory order' as an application for a 'further prohibitory order' and therefore within the provisions of O 47

r 6(7), it is my considered opinion that O 47 r 6(7) as a general rule disallows the making of a further prohibitory order affecting the same property or interest in the same suit or proceeding unless, the court or judge shall by order otherwise direct, on the ground of the existence of special circumstances.

Before I deal with the issue of special circumstances, it is essential to consider the legal implications of the 'further prohibitory order' contained in O 47 r 6(7).

Paragraph 3 of the plaintiff's application avers that the original prohibitory order which has apparently expired on 1 December 2000 has been extended for another six months until 31 May 2001, presumably under O 47 r 6(5). Plaintiff's application in encl (84) was filed on 2 July 2001 and supported by the said solicitor's affidavit affirmed on 26 June 2001.

The use of the words 'further prohibitory order' in O 47 r 6(7) seems to suggest the presupposition that there is a requirement for the existence of an unexpired extended prohibitory order made under O 47 r 6(5) so that the further prohibitory order may provide a linkage as a mark of continuity on or before the expiry of the extended prohibitory order ie on or before 31 May 2001. In my considered view, an extended prohibitory order under O 47 r 6(5) which has lapsed or expired on 31 May 2001 may only be continued by way of a further prohibitory order under O 47 r 6(7) if the extended prohibitory order remains valid and has not lapsed or expired.

Once the extended prohibitory order has lapsed or expired on 31 May 2001, it cannot be continued by way of a further prohibitory order. Plaintiffs application was filed on 2 July 2001, which was more than a month after the expiry of the extended prohibitory order. The court has no power to resuscitate a dead prohibitory order, per Edgar Joseph Jr J (later FCJ) in *Ban Hin Lee Credit Sdn Bhd v Utama Computer Centre Sdn Bhd & Ors* [1991] 2 MLJ 327 at p 322.

The aforesaid grounds are indeed sufficient to dispose off the plaintiffs application which is the subject matter of the appeal herein. However for purposes of completeness, I shall proceed to deal with another factor that militates against the plaintiff. This concerns the issue of special circumstances.

Special circumstances

The burden of proof under O 47 r 6(7) is cast on the plaintiff to establish the existence of special circumstances.

It is true that the expression 'special circumstances' has not been statutorily defined in the Rules of the High Court 1980 or the National Land Code 1965. However, this expression has been explained in countless judgments delivered by our courts and a relatively recent judicial statement has been given by Abdul Hamid Mohamad JCA in *Ming Ann Holdings Sdn Bhd v Danaharta Urus Sdn Bhd* [2002] 3 MLJ 49 at p 67. After reviewing a long line of authorities, the learned judge said:

> The weight of authorities appears to me to say that special circumstances must be special, not ordinary, common or usual circumstances ... .

In my view, there is no rigid formulation as to what constitutes or does not constitute 'special circumstances'. The legislature has wisely refrained from providing for a rigid formulation or definition as such special circumstances may only be determined by way of illustrations unfolded by the matrix of facts and circumstances prevailing in any particular case which must be deposed to in specific details in an affidavit. I hasten to add that the permutations, combinations or categories of such circumstances are never closed.

Paragraph 5 of the affidavit in support of the plaintiffs application herein merely averred that the sealed order for the auction cannot be extracted from the court. However, the original prohibitory order was entered in the relevant land registry for one lot only, ie Lot 2227 in which case if at all the auction could be effected, it was only for that lot and not for Lot 2228.

As in *Ban Hin Lee*, where it was found that there was no evidence of the existence of special circumstances, I have, after proper perusal of the entire affidavit affirmed by the deponent-solicitor, come to the same conclusion in relation to the plaintiff's application in encl (84).

Conclusion

In a nutshell, the facts herein and the law applicable do not seem to support the plaintiff's application. The inevitable conclusion is that the plaintiff's application in encl (84) is without merits and the registrar should have dismissed it with costs. In the circumstances, I allow the defendant's appeal herein, set aside the orders made by the registrar and dismiss the plaintiff's application in encl (84) with costs.

Defendant's appeal allowed.

Reported by Lim Lee Na